

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) PETRYNA 8
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>May 5, 2009</u></p> <p>Signature <u>/Debbie Sams/</u></p> <p>Typed or printed name <u>Debbie Sams</u></p>		Application Number 09/940,783 Filed August 28, 2001 First Named Inventor Brian J. Petryna Art Unit 2419 Examiner Andrew Chung Cheung Lee

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- applicant/inventor.
 assignee of record of the entire interest.
 See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
 (Form PTO/SB/96)
 attorney or agent of record.
 Registration number 58,076
 attorney or agent acting under 37 CFR 1.34.
 Registration number if acting under 37 CFR 1.34 _____

Signature

Steven J. Hanke

Typed or printed name

972-480-8800

Telephone number

May 5, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
 Submit multiple forms if more than one signature is required, see below*.

*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Brian J. Petryna

Serial No.: 09/940,783

Filed: August 28, 2001

Title: SYSTEM AND METHOD FOR AUTOMATICALLY ESTABLISHING
A TELEPHONE CALL OVER A COMPUTER NETWORK

Grp./A.U.: 2419

Examiner: Andrew Chung Cheung Lee

Confirmation No.: 3916

Commissioner for Patents
P.O. Box 1450
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(Signature of the person signing the certificate)

Sir:

PRE-APPEAL BREIF REQUEST FOR REVIEW

The Appellant has carefully considered this application in connection with the Examiner's Final Rejection electronically delivered February 5, 2009, and respectfully requests a pre-appeal brief review of this application in view of the following remarks.

REMARKS/ARGUMENTS

The Appellant originally submitted Claims 1-21 in the application. No claims have been canceled or added. Accordingly, Claims 1-21 are currently pending in the application.

I. Rejection of Claims 1-2, 7-9, 14-16, and 21 under 35 U.S.C. §102

The Examiner has rejected Claims 1-2, 7-9, 14-16, and 21 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,215,784 to Petras, *et al.* (hereinafter “Petras”). The Appellant respectfully disagrees since the cited portions of Petras do not teach extracting a destination address for a subsequent telephone call from calling number identification signals received from a first telephone call over a circuit-switched telephone network and employing the destination address to automatically initiate the subsequent call to the destination address via a computer network as recited in independent Claims 1, 8, and 15.

Citing lines 9-40 of column 7, lines 31-41 of column 8, and Fig. 3, the Examiner interprets that Petras teaches extracting a destination address for a subsequent call from calling number identification signals received from a first telephone call over a circuit-switched telephone network. (*See* Final Rejection of February 5, 2009, page 13.) The cited portions of Petras teach that when a subscriber 32 wants to call the telephone 58 of a sender of a received e-mail, the subscriber 32 places a telephone 34 off-hook. The PBX 49 the telephone 34 is connected to automatically dials a number assigned to a CTI server 40 outside PSTN 14, which extracts the telephone number of telephone 34 (the subscriber 32 using the CTI server service) and passes that number to a warm-line server 38. The warm-line server 38 uses the extracted telephone number of the subscriber passed on by the CTI server 40 to retrieve a current IP address of the subscriber 32, formulate a data message, and send the

data message to the IP address of a PC 36 of the subscriber 32. A warm-line enabled application on the subscriber's PC 36 then sends the e-mail address of the sender of the received e-mail back to the warm-line server 38 which, in turn, uses a directory service 45 to translate the e-mail address to a telephone number. The warm-line server 38 then requests the CTI server 40 to call the number. The CTI server 40 then connects the telephone 58 of the sender of the e-mail with the subscriber's 32 telephone 34 over the PSTN. Thus, the cited portions of Petras teach extracting a telephone number for a subsequent call from a directory service derived from an e-mail and employing the telephone number to automatically initiating the subsequent call over the circuit-switched PSTN.

As such, the cited portions of Petras, as relied upon by the Examiner, do not teach or suggest extracting a destination address for a subsequent telephone call from calling number identification signals received from a first telephone call over a circuit-switched telephone network and employing the destination address to automatically initiate the subsequent call to the destination address via a computer network. Therefore, the cited portions of Petras do not anticipate independent Claims 1, 8, and 15 and Claims that depend thereon. Accordingly, the Appellant respectfully requests the Review panel to remove the §102(e) rejection of Claims 1-2, 7-9, 14-16, and 21 and allow issuance thereof.

II. Rejection of Claims 1-21 under 35 U.S.C. §103

The Examiner has rejected Claims 1-21 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,760,324 to Scott, *et al.* (hereinafter "Scott") in view of Petras. The Appellant respectfully disagrees.

The Examiner recognizes that Scott does not explicitly disclose extracting from calling number identification signals a destination address of a first caller for a subsequent telephone call

from a second caller to the first caller and cites Petras to cure this deficiency of Scott. (*See* Final Rejection of February 5, 2009, page 6.) However, as established above, Petras does not teach extracting a destination address for a subsequent call over a computer network from calling number identification signals received and, as such, Petras does not cure the deficiency of Scott noted by the Examiner. Therefore, the cited combination of cited portions of Scott and Petras does not provide a *prima facie* case of obviousness for independent Claims 1, 8, and 15 and Claims that depend thereon. Accordingly, the Appellant respectfully requests the Review panel to remove the §103(a) rejection of Claims 1-21 and allow issuance thereof.

III. Rejection of Claims 1-21 under 35 U.S.C. §103

The Examiner has rejected Claims 1-21 under 35 U.S.C. §103(a) as being unpatentable over Scott in view of U.S. Patent No. 7,110,395 to Blair (hereinafter “Blair”). The Applicant respectfully disagrees.

The Examiner recognizes that Scott does not teach extracting a destination address for a subsequent telephone call and cites Fig. 2 and column 2, lines 42-60 of Blair to assert that Blair teaches extracting a destination address for a subsequent telephone call initiated over a computer network from a second caller to a first caller. Specifically, the Examiner asserts that “a call identifier will be sent along with the call signal” teaches extracting a destination address. (*See* Final Rejection of February 5, 2009, page 15.) Blair teaches that once both phones are connected to a same server or site, they discover network addresses of each other and when each phone knows the addresses, data packets are sent directly to each phone across a network. (*See, e.g.,* line 66 of column 2 through line 2 of column 3.) Blair does not teach that the call identifier is employed to make the subsequent call,

but, rather, that the discovered network address is employed to make the subsequent call. Thus, the cited portions of Blair as applied by the Examiner do not cure the noted deficiencies of Scott. As such, the cited combination of Scott and Blair does not provide a *prima facie* case of obviousness for presently amended independent Claims 1, 8, and 15 and Claims that depend thereon. Accordingly, the Appellant respectfully requests the Examiner to withdraw the §103(a) rejection of Claims 1-21 and allow issuance thereof.

IV. Conclusion

In view of the foregoing remarks, Appellant now sees that all of the Claims currently pending in this application are in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1-21. The Appellant requests the Reviewers to telephone the undersigned agent of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

HITT GAINES, PC

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Dated: May 5, 2009

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